REMARKS

The Non-Final Office Action, mailed August 17, 2009, considered claims 23–36. Claims 23-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,654,830 (filed Dec. 6, 1999) (hereinafter Taylor), in view of Eastep, U.S. Patent No. 5,566,328 (filed Jan. 23, 1995) (hereinafter Eastep), and in further view of Seejo Sebastine, *A Scalable Content Distribution Service for Dynamic Web Content* (University of Virginia, June 15, 2001) (hereinafter Sebastine).[1]

By this response, claim 23 is amended such that claims 23–36 remain pending. Claims 23 and 36 are independent claims which remain at issue. Support for the amendments may be found, *inter alia*, within Specification ¶¶ 0038 and 0059.[2]

Independent claims 23 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Taylor, in view of Eastep, and in view of Sebastine.[3] The Applicants respectfully reassert the traversals of previous responses and reassert that the claims as (previously) recited are patentable over Taylor, in view of Eastep, and in view of Sebastine. The traversals notwithstanding, however, the Applicants have now amended the independent claims to more particularly point out particular embodiments of the claimed invention.[4] The Applicants submit that independent claims 23 and 36 (and likewise the respective dependent claims) as now presented are patentable over the cited references.

In particular, the cited references, considered both separately and in combination, fail to teach or suggest copying contents of the legacy share to the new server, the contents comprising all data of the legacy share stored upon the legacy server. The Office asserted that Taylor col. 5

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[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] Please note that the paragraph numbers are taken from the published application, U.S. Pat. Pub. No. 2004/0243646 (Dec. 2, 2004). It should also be noted that the present invention and claims as recited take support from the entire Specification. As such, no particular part of the Specification should be considered separately from the entirety of the Specification.

[3] Office Communication p. 5 (paper no. 20090129, Feb. 4, 2009).

[4] Please note that the amendments do not evince any concession on the part of the Applicants as to the asserted rejections. The Applicants maintain that the rejections of the previously presented claims are inappropriate and reserve the right to pursue any previously presented claims or subject matter at such a time (e.g., in a continuation application) which may be considered to be appropriate or desirable.

l. 60–62 discloses these limitations.[5] The Applicants respectfully disagree. Taylor col. 5 l. 60–62 recites "the intermediate device 10 *maps all data access requests* identifying the data set subject of the transfer and received on the interface to link 13, to the link 14 for connections to the device 11 . . . ."[6] The Applicants note that *mapping* an *access request* does not explicitly disclose nor does it teach or suggest copying contents of a legacy share to a new server, the contents comprising all data of the legacy share stored upon the legacy server. An access request is a request for access. Mapping an access request to a link 14 (instead of a link 13) merely discloses redirecting a request – that is, it does not teach that *contents* comprising all data of a share are *copied* to a new server.

The cited references, considered both separately and in combination, also fail to teach or suggest receiving at the consolidation server a request from a client for the legacy share, the request specifying the original, unchanged legacy share path name. The Office asserted that Eastep col. 3 l. 35–40 teaches these limitations.[7] However, the Applicants note that Eastep col. 5 l. 35–40 recites "it is desirable to have a system where a file handle that is one of multiple file handles for the same file can be used to regenerate the pathname that was originally resolved to create the file handle. Such a system would be useful, for example, to generate a pathname that was used to open a file in the case where the file has several file handles and pathnames."[8] First, the Applicants note that the passage cited in Eastep is merely hypothetical – it does not disclose how to do anything, it merely states something which "is desirable" but may not have ever been implemented. Secondly, the cited passage (as well as the references when combined) fail to teach or suggest that the request specifies the original, unchanged legacy share path name.

The cited references, considered both separately and in combination, also fail to teach or suggest the consolidation server rewriting the legacy share path name by prepending the legacy share path with the consolidation server name. The Office asserted that Sebastine § 4.1.1 teaches these limitations.[9] However, the Applicants submit that, whereas Sebastine § 4.1.1 does disclose a "redirector module,"[10] it fails to teach or suggest that the legacy server path name is rewritten by prepending the legacy share path with the consolidation server name. In particular, Sebastine

[5] Office Communication pp. 3–4 (paper no. 20090803, Aug. 17, 2009).
[6] Taylor col. 5 l. 60–62 (emphasis added).
[7] Office Comm. p. 5.
[8] Eastep col. 5 l. 35–40.
[9] Office Comm. p. 6.
[10] See Sebastine § 4.1.1.

discloses *replacing* a name (e.g., "www.xyz.com") with a different name (e.g., "as1.cs.virginia.edu:8080") but does not teach or suggest *prepending* any name upon a legacy share path.

The cited references, considered both separately and in combination, also fail to teach or suggest logging information about the request, the information comprising a name of the legacy share and a name of a client making the request. The cited references, considered both separately and in combination, also fail to teach or suggest tracking active usage of the legacy share through the logged information. The cited references, considered both separately and in combination, also fail to teach or suggest based upon the logged information and the tracked active usage, determining when the legacy share should be retired based upon infrequent usage.

Because of at least the distinctions noted, inter alia, the Applicants submit that a rejection under 35 U.S.C. § 103(a) as being unpatentable in view of Taylor, in view of Eastep, and in view of Sebastine would be improper and should be withdrawn. Accordingly, the Applicants respectfully request favorable reconsideration of independent claims 23 and 36 as well as the respective dependent claims.

In view of at least the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; and/or (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not

otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 17th day of November, 2009

Respectfully submitted,

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